''(5) REPRESENTATIVE.—The term 'representative' does not include an independent contractor.

''(6) SALES TAX.—The term 'sales tax' means a tax that is—

''(A) imposed on or incident to the sale of tangible or intangible personal property or services as may be defined or specified under the laws imposing such tax; and

''(B) measured by the amount of the sales price, cost, charge, or other value of or for such property or services.

''(7) SOLICITATION OF ORDERS OR CONTRACTS.—The term 'solicitation of orders or contracts' includes activities normally ancillary to such solicitation.

''(8) STATE.—The term 'State' means any of the several States, the District of Columbia, or any territory or possession of the United States, or any political subdivision thereof.

''(9) USE TAX.—The term 'use tax' means a tax that is—

''(A) imposed on the purchase, storage, consumption, distribution, or other use of tangible or intangible personal property or services as may be defined or specified under the laws imposing such tax; and

''(B) measured by the purchase price of such property or services.

''(10) WORLD WIDE WEB.—The term 'World Wide Web' means a computer server-based file archive accessible, over the Internet, using a hypertext transfer protocol, file transfer protocol, or other similar protocols.

''(f) APPLICATION OF SECTION.—This section shall not be construed to limit, in any way, constitutional restrictions otherwise existing on State taxing authority.

''SEC. 102. ASSESSMENT OF BUSINESS ACTIVITY TAXES.

''(a) LIMITATIONS.—No State shall have power to assess after the date of enactment of this title any business activity tax which was imposed by such State or political subdivision for any taxable year ending on or before such date, on the income derived for activities within such State that affect interstate commerce, if the imposition of such tax for a taxable year ending after such date is prohibited by section 101.

''(b) COLLECTIONS.—The provisions of subsection (a) shall not be construed—

''(1) to invalidate the collection on or before the date of enactment of this title of any business activity tax imposed for a taxable year ending on or before such date; or

''(2) to prohibit the collection after such date of any business activity tax which was assessed on or before such date for a taxable year ending on or before such date.

''SEC. 103. TERMINATION OF SUBSTANTIAL PHYSICAL PRESENCE.

''If a State has imposed a business activity tax or a duty to collect and remit a sales or use tax on a person as described in section 101, and the person so obligated no longer has a substantial physical presence in that State, the obligation to pay a business activity tax or to collect and remit a sales or use tax on behalf of that State applies only for the period in which the person has a substantial physical presence.

''SEC. 104. SEPARABILITY.

''If any provision of this title or the application of such provision to any person or circumstance is held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.''.

Mr. KOHL. Mr. President, today I introduce with my good friend from New Hampshire NET FAIR, the New Economy Fairness Act. This bill is identical to a bill we introduced last Congress. It would clarify the tax situation of companies that sell and ship products out of the state in which they are located.

NET FAIR codifies current legal decisions defining when a business can be subject to state and local business taxes and be required to collect State and local sales taxes. Currently, a business falls into a state or local taxing jurisdiction when it has a ''substantial physical presence'' or ''nexus'' there.

And that makes sense. If a business is located in a State—uses the roads there, impacts the environment there, employs local workers there it should pay taxes and business fees there, and it should collect sales taxes on products sold there.

But if a business is located out of State, and simply ships products to consumers there, it is not part of the local economy. It does not use local services or infrastructure. And it should not be subject to the taxes and tax collection burdens that support a community not its own.

That seems simple. But as with anything that happens in tax law, it is not. Cases have been brought in courts across the country trying to clarify exactly what is a ''substantial physical presence.'' Is it maintaining a Web site? Sending employees to training conferences? Taking orders over the Internet? Our bill codifies the decisions already established by the courts and restates the principle on which they are all based: State and local taxing authorities do not have jurisdiction over businesses that are not physically located in their borders.

Because this area of the law is as arcane as it is important, it is important to describe what our bill does not do.

It does not exempt e-businesses or any other mail order businesses from taxation. The businesses our bill cover pay plenty of taxes—Federal taxes and State and local taxes and fees in every state in which they maintain a physical presence.

Our bill does not offer special breaks for e-businesses. Though the struggling e-economy will certainly benefit from having its tax situation clarified, nothing we state in this bill goes beyond current established case law.

Our bill does not take away any revenue States and localities are currently collecting. Only Congress has the right to regulate the flow of commerce between the States. State and local tax collectors have never been able to reach into other States and collect revenues from businesses outside their borders.

Our bill does not threaten ''main street businesses.'' In fact, it is just the opposite. The small stores of Main Street are threatened by malls and mega-stores—not by the Internet or catalogue companies. In fact, many Main Street speciality stores are staying alive by offering their products over the Internet.

In Wisconsin, for example, we have many cheese makers who have run small family businesses for years. A quick search on the World Wide Web yields 20 Wisconsin cheese makers selling over the Internet. They are from Wisconsin towns like Plain, Durand, Fennimore, Tribe Lake, Thorp, and Prairie Ridge. Could these small towns support speciality cheese makers with walk-in traffic only? Would these small businesses continue to sell over the Internet if they had to figure and remit sales taxes and business fees to the over 7000 taxing jurisdictions into which they might ship? Of course not.

What our bill does do is protect businesses, big and small, and consumers from facing a plethora of new taxes and tax compliance burdens. What it does do is keep the life-line of Internet sales available for countless small businesses and entrepreneurs. What it does do is clarify the tax law and eliminate the need for State-by-State litigation—that governs the developing world of e–commerce. What it does do is provide predictability to the mail order business sector an industry that employs 300,000 in the State of Wisconsin.

I urge my colleagues to support NETFAIR and protect thousands of businesses and millions of consumers from new and onerous tax burdens.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 65—HONORING NEIL L. RUDENSTINE, PRESIDENT OF HARVARD UNIVERSITY

Mr. KERRY submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 65

Whereas Neil L. Rudenstine is retiring as the 26th President of Harvard University in Cambridge, Massachusetts, on June 30, 2001, after 10 years of service in the position;

Whereas Harvard University, founded in 1636, is the oldest university in the United States and 1 of the preeminent academic institutions in the world;

Whereas throughout the history of the United States, graduates of Harvard University have served the United States as leaders in public service, including 7 Presidents and many distinguished members of the United States Senate and the House of Representatives;

Whereas in recognition of his belief in, and Harvard University's continued commitment to, public service as a value of higher education, Neil L. Rudenstine worked to establish the Center for Public Leadership at Harvard University's Kennedy School of Government to prepare individuals for public service and leadership in an ever-changing world;

Whereas in order to make a Harvard University education available to as many qualified young people as possible, during Neil L. Rudenstine's tenure, the University expanded its financial aid budget by

$8,300,000 to help students graduate with less debt;

Whereas Neil L. Rudenstine has made Harvard University a good neighbor in the community of Cambridge and greater Boston by launching a $21,000,000 affordable housing program and by creating more than 700 jobs; and

Whereas Neil Rudenstine built an academic career of great distinction, including 2 bachelor's degrees, 1 from Princeton University and the other from Oxford University, a Rhodes Scholarship, a Harvard Ph.D. in English, recognition as a scholar and authority on Renaissance literature, and preeminent positions in higher education: Now, therefore, be it

Resolved,

SECTION 1. HONORING NEIL L. RUDENSTINE.

The Senate—

(1) expresses deep appreciation to President Neil L. Rudenstine of Harvard University for his contributions to higher education, for the spirit of public service that characterized his decade as Harvard University's President, for his many years of academic leadership at other universities, and for the grace and elegance that he brought to all he has done; and

(2) wishes him well in every future endeavor, anticipating the continuing benefit of his thoughtful expertise to American higher education.

SEC. 2. TRANSMITTAL.

The Secretary of the Senate shall transmit a copy of this resolution to Neil L. Rudenstine.

AMENDMENTS SUBMITTED AND PROPOSED

SA 155. Mr. HARKIN (for himself, Mr. WELLSTONE, and Mr. BIDEN) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

SA 156. Mr. FRIST (for himself and Mr. BREAUX) proposed an amendment to the bill S. 27, supra.

SA 157. Mr. BINGAMAN proposed an amendment to the bill S. 27, supra.

SA 158. Mr. BINGAMAN proposed an amendment to the bill S. 27, supra.

SA 159. Mr. NELSON, of Florida proposed an amendment to the bill S. 27, supra.

SA 160. Mr. KERRY proposed an amendment to the bill S. 27, supra.

SA 161. Mr. LEVIN (for himself, Mr. ENSIGN, Mrs. CLINTON, Mr. DORGAN, Mr. NELSON, of Nebraska, and Mr. REID) proposed an amendment to the bill S. 27, supra.

SA 162. Mr. DURBIN (for himself and Mr. COCHRAN) proposed an amendment to the bill S. 27, supra.

SA 163. Mr. THOMPSON (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEAHY, Mr. JEFFORDS, and Mr. DODD) proposed an amendment to the bill S. 27, supra.

SA 164. Mr. REED proposed an amendment to the bill S. 27, supra.

TEXT OF AMENDMENTS

SA 155. Mr. HARKIN (for himself, Mr. WELLSTONE, and Mr. BIDEN) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 38, after line 3, add the following:

TITLE V—VOLUNTARY SENATE CANDIDATE SPENDING LIMITS AND BENEFITS

SEC. 501. VOLUNTARY SENATE SPENDING LIMITS AND PUBLIC BENEFITS.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 is amended by adding at the end the following:

"TITLE V—VOLUNTARY SPENDING LIMITS AND PUBLIC BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

''(a) IN GENERAL.—For purposes of this title, a candidate is an eligible candidate if the candidate—

''(1) meets the primary and general election filing requirements of subsections (b) and (c); and

''(2) meets the primary and runoff election expenditure limits of subsection (d).

''(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration as to whether—

''(A) the candidate and the candidate's authorized committees—

''(i) will meet the primary and runoff election expenditure limits of subsection (d); and

''(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits; and

''(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(a).

''(2) The declaration under paragraph (1) shall be filed on the date the candidate files as a candidate for the primary election.

''(c) GENERAL ELECTION FILING REQUIREMENT.—(1) The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

''(A) the candidate and the candidate's authorized committees—

''(i) met the primary and runoff election expenditure limits under subsection (d); and

''(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable;

''(B) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

''(C) such candidate and the authorized committees of such candidate—

''(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 502(a);

''(ii) will not accept any contributions in violation of section 315;

''(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the amount of the general election expenditure limit under section 502(a);

''(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties; and

''(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

''(D) the candidate intends to make use of the benefits provided under section 503.

''(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

''(A) the date the candidate qualifies for the general election ballot under State law; or

''(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

''(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

''(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of an amount equal to 67 percent of the general election expenditure limit under section 502(a).

''(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(a).

''(2)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

''(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

''(i) would result in the violation of any limitation under section 315; or

''(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(C)(iii).

"SEC. 502. LIMITATIONS ON EXPENDITURES.

''(a) GENERAL ELECTION EXPENDITURE LIMIT.—Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible candidate and the candidate's authorized committees shall not exceed the sum of—

''(1) $1,000,000; and

''(2) 50 cents multiplied by the voting age population of the candidate's State.

''(b) PAYMENT OF TAXES.—The limitation under subsection (a) shall not apply to any expenditure by the candidate or the candidate's authorized committees for Federal, State, or local taxes on earnings allocable to contributions received by such candidates or committees.

"SEC. 503. BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE.

''(a) PAYMENTS.—An eligible candidate shall be entitled to payments from the Senate Election Campaign Fund with respect to an election in an amount equal to 2 times the excess expenditure amount determined under subsection (b) with respect to the election, beginning on the date on which an opponent in the same election as the eligible candidate makes an aggregate amount of expenditures, or accepts an aggregate amount of contributions, in excess of an amount equal to the sum of—

''(1) the excess expenditure amount; and

''(2) $10,000.

''(b) EXCESS EXPENDITURE AMOUNT.—For purposes of subsection (a), except as provided in section 505(c), the excess expenditure amount determined under this subsection with respect to an election is the greatest aggregate amount of expenditures made (or obligated to be made), or contributions received, by any opponent of the eligible candidate with respect to such election in excess of the primary or runoff expenditure limits under section 501(d) or general election expenditure limit under section 502(a) of the eligible candidate (as applicable).